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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,038	11/27/2000	George M. Carlone	65446	5598

23859 7590 05/12/2003

NEEDLE & ROSENBERG P C  
127 PEACHTREE STREET N E  
ATLANTA, GA 30303-1811

EXAMINER
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DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 05/12/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/623,038

Applicant(s)  
Carlone et al.

Examiner  
S. Devi, Ph.D.

Art Unit  
1645



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 29, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 ~~is/are~~ pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-22 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Sequence search report.

```

; SOFTWARE: PatentIn Release #1.0, Version #1.30
; CURRENT APPLICATION DATA:
; APPLICATION NUMBER: US/08/732,192A
; FILING DATE: 15-NOV-1996
; CLASSIFICATION: 435
; PRIOR APPLICATION DATA:
; APPLICATION NUMBER: US 60/005,146
; FILING DATE: 25-OCT-1995
; ATTORNEY/AGENT INFORMATION:
; NAME: HIGHLANDER, STEVEN L.
; REGISTRATION NUMBER: 37,642
; REFERENCE/DOCKET NUMBER: UMIC:015
; TELECOMMUNICATION INFORMATION:
; TELEPHONE: (512) 418-3000
; TELEFAX: (713) 789-2679
; INFORMATION FOR SEQ ID NO: 2:
; SEQUENCE CHARACTERISTICS:
; LENGTH: 870 amino acids
; TYPE: amino acid
; TOPOLOGY: linear
; MOLECULE TYPE: protein
; US-08-732-192A-2

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Query Match      40.0%; Score 6; DB 2; Length 870;
Best Local Similarity 100.0%; Pred. No. 41;
Matches 6; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

QY 4 RVPWTA 9
   |||||
Db 430 RVPWTA 435

```

SEQ ID NO. 5

```

RESULT 1
US-08-732-192A-2
; Sequence 2, Application US/08732192A
; Patent No. 5849526
; GENERAL INFORMATION:
; APPLICANT: Pichersky, Eran
; TITLE OF INVENTION: USE OF LINALOOL SYNTHASE IN GENETIC
; TITLE OF INVENTION: ENGINEERING OF SCENT PRODUCTION
; NUMBER OF SEQUENCES: 2
; CORRESPONDENCE ADDRESS:
; ADDRESSEE: ARNOLD, WHITE & DURKEE
; STREET: P.O. Box 4433
; CITY: Houston
; STATE: Texas
; COUNTRY: USA
; ZIP: 77210-4433
; COMPUTER READABLE FORM:
; MEDIUM TYPE: Floppy disk
; COMPUTER: IBM PC compatible
; OPERATING SYSTEM: PC-DOS/MS-DOS

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### **Lack of Unity**

- 1) Claims 1-22 are under prosecution.
- 2) **Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
- 3) The instant inventions lack unity under PCT Rule 13.1 and 13.2:
  - I. Claims 6, 12, 15, 16, 18 and 20, drawn to a therapeutic composition comprising a peptide of SEQ ID NO: 5 or a fragment thereof, classified in class 514, subclass 2
  - II. Claims 6, 12, 15, 16, 18 and 20, drawn to a therapeutic composition comprising a peptide of SEQ ID NO: 6 or a fragment thereof, classified in class 514, subclass 2
  - III. Claims 6, 12, 15, 16, 18 and 20, drawn to a therapeutic composition comprising a peptide of SEQ ID NO: 7 or a fragment thereof, classified in class 514, subclass 2
  - IV. Claims 6, 12, 15, 16, 18 and 20, drawn to a therapeutic composition comprising a peptide of SEQ ID NO: 8 or a fragment thereof, classified in class 514, subclass 2
  - V. Claim 7, drawn to a peptide obtained by splicing oligonucleotides of a bacteriophage library, screening the library and sequencing the gene, classified in class 530, subclass 300
  - VI. Claims 14 and 22, drawn to a method for conferring protective immunity by administering a peptide of SEQ ID NO: 5 or a fragment thereof, classified in class 424, subclass 244.1
  - VII. Claims 14 and 22, drawn to a method for conferring protective immunity by administering a peptide of SEQ ID NO: 6 or a fragment thereof, classified in class 424, subclass 244.1
  - VIII. Claims 14 and 22, drawn to a method for conferring protective immunity by

administering a peptide of SEQ ID NO: 7 or a fragment thereof, classified in class 424, subclass 244.1

- IX. Claims 14 and 22, drawn to a method for conferring protective immunity by administering a peptide of SEQ ID NO: 8 or a fragment thereof, classified in class 424, subclass 244.1

Claims 1-5 and 8-11 are considered as linking claims and would be joined with one of inventions I through IV, if elected.

Claims 13, 17, 19 and 21 are considered as linking claims and would be joined with one of inventions VI through IX, if elected.

4) Inventions I through IX lack unity of inventions due to the absence of a special technical feature. The special technical feature unifying the various inventions in the instant application is any one of the four structurally and functionally/ immunogenically distinct peptides or a fragment thereof as recited, for example, in claim 6. However, such a peptide or a fragment thereof has already been taught by the prior art. For instance, Pichersky (US 5,849,526) taught such a fragment of the peptide sequence, SEQ ID NO: 5, which is long enough to be antigenic. See the attached sequence search report. Therefore, the special technical feature does not define over the prior art. Since the special technical feature is not a unifying feature, the unity of invention is considered as lacking. It is further noted that, technically, the absence of a special technical feature would permit the separation of method of using the product from the product itself.

5) Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. 1.143).

6) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A telephone message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Serial Number 09/623,038

Art Unit: 1645

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

May, 2003

  
S. DEVI, PH.D.  
PRIMARY EXAMINER



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE:

FROM/ATTORNEY:

FIRM:

PAGES, INCLUDING COVERSHEET:

PHONE NUMBER:

TO EXAMINER: S. DEVI, Ph.D.

ART UNIT: 1645

SERIAL NUMBER:

FAX/TELECOPIER NUMBER: (703) 308-4315

**PLEASE NOTE: THIS FACSIMILE NUMBER IS TO BE USED ONLY  
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COMMENTS: \_\_\_\_\_  
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